

**CALIFORNIA COASTAL COMMISSION**

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**F13a**

Following page 21 an addendum with additional attachments has been added to this document and posted on our web site on October 13, 2005.

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**COASTAL DEVELOPMENT PERMIT APPLICATION**

**Application number** .....3-04-075, Seaside Company Perimeter Fencing Extension

**Applicant**.....Santa Cruz Seaside Company

**Project location** .....400 Beach Street, Santa Cruz; Eastern Walkway Entrance

**Project description**.....Application of Santa Cruz Seaside Company for after-the-fact approval for the closure of a public access route and to replace fencing installed without the benefit of a coastal permit with additional perimeter fencing and public access turnstiles that provide access to Boardwalk during operating hours.

**Local approval**.....Coastal Permit 04-166, City of Santa Cruz, August 18, 2004 with Minor Modification September 21, 2004

**File documents**.....City of Santa Cruz Coastal Permit 04-166; Coastal Development Permit Files 3-04-075, 3-99-080, and 3-99-070-DM.

**Staff recommendation** ...Approval with Conditions

**Summary:** The Santa Cruz Beach and Boardwalk, located directly adjacent to the Santa Cruz Main Beach and the San Lorenzo River, is one of the Central Coast's most popular destinations for coastal access and recreation. Because it is located on historic tidelands, the Beach Boardwalk falls within the Coastal Commission's retained permit jurisdiction. The century old amusement park and adjacent beach draw nearly 3 million visitors a year, and provides important vertical and lateral coastal access routes for the general public. In addition to offering commercial recreation activities, the Beach Boardwalk has historically provided free access to and along the beach and bluff on a year round basis. However, as commercial facilities have expanded and modernized, the Seaside Company (owner and operator of the Beach Boardwalk) has developed the need to manage patterns of public access, and has taken action, in some cases without the proper permits, to limit public access in areas previously available for public use.

In this application, the Seaside Company seeks permission to replace fencing and a gate at the downcoast end of the Beach Boardwalk that was installed without the necessary coastal development permit sometime around 2000, and has since been used to restrict access to and from the Beach Boardwalk's eastern area. The Applicant proposes to extend the perimeter fencing along the north and east corner of the Santa Cruz Beach and Boardwalk to enclose roughly 2,315 square feet of additional



**California Coastal Commission**  
**October 14, 2005 Meeting in San Diego**

Staff: M. Watson Approved by:

property. The fencing is proposed to be 8 feet in height and includes installation of two one-way turnstiles that will provide ingress and egress at the Boardwalk's Walkway 6 gateway during operating hours. As proposed, the turnstiles will be closed at night and at all times during the off-season (i.e., the entire months of November, December, and January, and Monday through Friday during the months of February, March, April, May, September, and October).

The Applicant asserts that the proposed development is necessary to stem undesirable activity that is occurring in the area and to increase / ensure public safety for its visitors. The Applicant notes there have been problems in the past with perpetrators of crime exiting Boardwalk property through Walkway 6 to escape enforcement. The project is intended to take away this escape route as a means to deter crime on the east end of the park. Seaside Company representatives also maintain that extending the fence is necessary to eliminate access to the railroad right-of-way fronting the seaside park and reduce their liability in accidents. They contend that there have been incidents of pedestrians and cyclists being hurt while trying to cross or negotiate the tracks that run parallel to the Boardwalk. However, the Applicant has not provided adequate evidence of significant public safety hazards or criminal activity, nor effectively addressed the option of providing increase security and management to address such concerns, in a manner that justifies the restrictions to vertical and lateral coastal access proposed by the project.

The Applicant's proposal will severely constrain, and in some areas preclude, the use of important coastal access routes that have been historically available for unimpeded use by the general public. For example, the proposed fencing will block an important lateral access connection between the river levee trail and the river trestle bridge, which provides a critical link between downtown Santa Cruz and the eastside neighborhoods (Seabright, Live Oak, etc.). A project to re-establish this link in a different location has been approved by the City, but there is no guarantee that the replacement ramp will be constructed before the new fence is built.

The proposed fencing also precludes future opportunities to provide one-way bike and pedestrian paths on both sides of the Union Pacific Railroad by providing no setback from the right of way. The Santa Cruz Regional Transportation Commission is considering purchase of the railway for rail trail improvements that would be key components of the California Coastal Trail (CCT) and the Monterey Bay Sanctuary Scenic Trail (MBSST). Moreover, the absence of a set back from the railway right of way jeopardizes public safety by interfering with the ability to get out of the way of oncoming trains.

The proposed development would further impede public access by replacing the preexisting 12' wide gate used for ingress and egress to the Boardwalk and Main Beach with two, one-way turnstiles that will impede access for the handicapped, visitors with small children, and the elderly. In summary, the Applicant's proposal unnecessarily restricts the public's ability to use established vertical and lateral coastal access routes, and does not maintain and enhance non-automobile circulation, and is therefore inconsistent with Sections 30210, 30211, and 30252 of the Coastal Act.



To bring the project into conformance with these policies, **staff recommends the Commission approve a revised project with conditions** prohibiting the extension of fencing beyond its current alignment. This change is necessary to protect existing pedestrian and bicycle access routes, maintain the public's ability to conveniently access the eastern end of the Boardwalk and Main Beach, and prevent interference with the future establishment and operation of the CCT and MBSST. The recommended conditions also require the proposed turnstiles to be replaced with a public access gate a minimum of 12' in width (equivalent to the access opening that was available prior to the installation of the existing unpermitted fencing), and call for the gate, along with the seasonal gate, and beach access gate, to be open during hours of normal operations. This condition maintains the general public's historic ability to travel laterally along the entire length of the Boardwalk, while at the same time allowing the Seaside Company to secure its rides and facilities at night and in the off-season.

Additional recommended conditions require installation of public access signs to ensure that the public is provided with the maximum opportunity to use the affected access routes. Finally, to abate the ongoing loss of public access opportunities associated with the fencing and gate that were installed without a permit, the recommended conditions require the Applicant to: install the new gate within 30 days of the Commission's action; immediately provide public access through the existing gate during hours of normal operation until the improvements are made; update the Boardwalk Attraction Map to indicate location of Walkway 6, and to comply with all conditions on the permit within 90 days of the Commission's action on the permit. Only with these conditions can the project be found to be consistent with the public access and development standards contained in Chapter 3 of the Coastal Act.



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## I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.



**Motion.** I move that the Commission approve Coastal Development Permit Number 3-04-075 pursuant to the staff recommendation.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to Approve a Coastal Development Permit.** The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

## II. Conditions of Approval

### A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.



## B. Special Conditions

1. **Final Plans.** WITHIN 30 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, permittee shall submit final plans to the Executive Director for review and approval, which shall revise and supplement the submitted plans as follows:
  - a. **Location and Alignment.** The location of the access gate and fencing shall not extend any further than the alignment of the existing fence shown in project plans attached as Exhibit B. The final site plan illustrating this alignment shall: identify property lines, railroad right-of-way, and flume-ride supports as reference points; clearly delineate existing pedestrian and bicycle paths; and document that the new access gate and fencing will not interfere with the public's ability to make use of existing access routes.
  - b. **Ingress and Egress.** The north fencing shall include an opening at the intersection with the public river levee path, of a minimum width of 12 feet, which may be gated.
  - c. **Height and Materials.** Fencing shall be a maximum of 8 feet in height. Both the fence and the access gate shall be made of chain-link or similar "see-through" material.
  - d. **Signage.** Final project plans shall include a signage plan that informs the public of coastal access opportunities at Walkway 6 and elsewhere along the Boardwalk. At a minimum, the signage plan shall:
    - provide for the installation of coastal access signs at conspicuous locations within all Boardwalk parking lots, and along the San Lorenzo River levee trail near the east end, at the entrance to Walkway No. 3, and at the western entrance to the Casino Arcade; and,
    - include a specific sign for Walkway 6 that informs the public of the alternative beach and boardwalk access routes available when Walkway 6 is closed; and
    - identify specific sign design, materials, and graphics that effectively inform the public of access locations, hours of availability, and coastal access trail connections; and
    - Prepare an update of the Boardwalk Attraction Map that clearly indicates the location of through and available public access at Walkway 6.
  - e. **Construction Plan.** The permittee shall submit a construction plan that identifies the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. Construction and staging areas shall be limited to the minimum area required to implement the approved project, and shall minimize interference with existing coastal access and bicycle and pedestrian circulation patterns by limiting construction hours and duration, and providing signed detours where necessary.



- f. City of Santa Cruz Authorization. The submittal of final plans shall be accompanied by evidence that the City of Santa Cruz has authorized all development that will take place on City owned property.

## **2. Public Access.**

- a. WITHIN 24 HOURS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the Applicant shall keep open the existing gates at Walkway 6, at the easternmost stairway to the beach, and the seasonal gate shown on Exhibit C for public ingress and egress for the times specified in subsection c below.
- b. WITHIN 90 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, or within such time as the Executive Director may grant for good cause, the permittee shall extend the opening in the fence to a minimum width of 12' at Walkway 6 and may install a gate there in conformance with the approved final plan requirements of Condition #1.
- c. Any gate at the Walkway 6 accessway shall remain open and available for pedestrian access and general public use during the normal hours of Boardwalk operation as shown on Exhibit I, and whenever the seasonal gate shown by Exhibit C is open. The time during which the accessway must remain open for general public uses shall be expanded as necessary to restore historic hours of availability.

- 3. **Condition Compliance.** WITHIN 90 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, or within such time as the Executive Director may grant for good cause, the Applicant shall satisfy all requirements specified in the conditions of this permit. Failure to comply with this requirement may result in the institution of action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

- 4. **Public Rights.** By acceptance of this permit, the applicant acknowledges that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

- 5. **Deed Restriction.** WITHIN 90 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment



of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

- 6. Revisions and Amendments.** The Permittee shall undertake development in accordance with the approved final plans identified in Special Conditions 1 and 2. Any proposed changes to the approved final plans (including any changes in fence or gate design, public access availability, or materials) shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that the change is immaterial or that no amendment is necessary

### III. Recommended Findings and Declarations

The Commission finds and declares as follows:

#### A. Project Description

##### 1. Project Location

The proposed project is located near the northeastern corner of the Santa Cruz Beach Boardwalk. The specific site of the proposed perimeter fencing extension is along the boundary of what appears to be City of Santa Cruz property on the County's Assessors map, south of the Union Pacific Railroad track and directly west of the San Lorenzo River trestle bridge. See Exhibit A, Project Location Maps. The subject property is triangular shaped and bound by the railroad right-of-way frontage, the San Lorenzo River, and the Boardwalk itself. Applicant maintains the site of the proposed development is located entirely within the boundaries of the Seaside Company property.

The area of land encompasses approximately 2,315 square feet and includes portions of a popular pedestrian and bicycle access path that provides both lateral and vertical access to Santa Cruz Main Beach from the San Lorenzo River levee road, the trestle bridge across the river, and the Boardwalk. The Coastal Commission retains permitting authority for this project because the property is located on historic state tidelands. While there has been some debate regarding the potential presence of public trust lands in the vicinity of the project, such issues have yet to be resolved.

##### 2. Project Description





The Applicant requests approval to reconfigure perimeter fencing and access gate that was installed in the northeast corner of the park in 2000 without the required coastal development permit. Specifically, the application proposes to reconfigure public access at Walkway 6 by replacing and extending the unpermitted fence to enclose additional property, and by replacing the existing public access gate with turnstiles in a new location. The existing unpermitted fence would be replaced and extended 60 linear feet along the eastern edge of the park, and an additional 75 linear feet along the northern edge of the park (adjacent to the Union Pacific Railroad tracks) to enclose roughly 2,315 square feet of additional property. The extended fence will be 8 feet in height and made of chain link. See Exhibit B, for site plan. The Applicant intends to address all unresolved permit violations within the context of this Coastal Development Permit. The identified violations include removing a 12' wide access gate, extending and installing perimeter fencing to enclose roughly 235 square feet of property, installing a 4' wide access gate, and restricting public access through Walkway 6 by locking the gate all of the time.

### 3. Permit History

The current application was received in the Commission's Central Coast Office in December 2004 and was filed as complete on June 3, 2005. The application proposes new development as well as to resolve the violations that resulted when the Seaside Company expanded the perimeter fencing and began to restrict public access at Walkway 6 in 2000 by locking the gate. This unpermitted activity occurred approximately at the same time that the Seaside Company installed new rides in the northeast corner of the park pursuant to CDP 3-99-070-DM, as further discussed below.

#### Previous CDP Actions (3-99-070 & 3-99-080)

In September 1999 the Applicant submitted an application to the Central Coast Office to 1) renovate and reconfigure the rides on the eastern side of the park, and 2) extend perimeter fencing and closure of Walkway 6 to general public use. Since the applicant was eager to construct the rides in the winter off-season, at that time it was recommended to the Applicant that the application be split into two separate permit requests given the complexity of the access and recreation issues raised by the proposed fencing/walkway closure. Coastal Development Permit 3-99-070-DM authorized the renovation and reconfiguration of those rides on the eastern end of the park, while CDP application 3-99-080 was submitted to extend perimeter fencing and close Walkway 6. The first item (3-99-070-DM) was reported to the Commission at its November 3, 1999 meeting and approved without objection. When staff indicated that there was not sufficient evidence to support a permanent closure of public access at Walkway 6, the Applicant withdrew application 3-99-080 in March 2000. Nonetheless, the perimeter fencing was extended, the twelve foot wide gate was replaced with a four foot wide gate, and the gate was permanently closed [locked] at Walkway 6 to general public use. The Commission's Enforcement Division opened a violation case file in May 2002 and has since been working with the Applicant to resolve the violations through submittal of a new CDP application.

## B.Coastal Development Permit Determination



## 1. Access

### a. Applicable Coastal Act Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” The proposed project is located seaward of the first through public road on the beach. Coastal Act Sections 30210, 30211, 30212.5, and 30221 specifically relate to the public access and recreation issues identified herein. In particular:

***Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212.5:** Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

***Section 30221:** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

***Section 30252(3):** The location and amount of new development should maintain and enhance public access to the coast by... providing non-automobile circulation within the development.*

### b. Public Access Analysis

#### General Background

The Santa Cruz Beach Boardwalk is a very popular visitor-serving destination with nearly 3 million visitors annually. It is the West Coast's largest seaside amusement park with over 35 rides and approximately one-half mile of beach frontage on Main Beach. Main Beach is the City's largest stretch of sandy beach area, extending approximately one mile from the cliffs at Cowell's surfing area past the Santa Cruz wharf to the San Lorenzo River. During the summer season, Beach and Boardwalk visitors come from all over to recreate at Main Beach.

The Boardwalk is aligned in an east – west orientation with the Casino Arcade on the west end and Walkway 6 at the east end. The Boardwalk fronts Beach Street and the Union Pacific Railroad tracks to



the north and Santa Cruz Main Beach to the south. Access to the beach is gained through six public walkways spread along Beach Street and a series of beach access stairways from the Boardwalk promenade to the sand. These points of access are spread along the length of the Boardwalk and generally open and available to the public during hours of operation. In the off-season when the park is closed, walkways 2, 3, 5, and the beach access stairs remain open for general public use. The Applicant has taken action to prohibit access at Walkway 6 and the east end of the Boardwalk during the off-season, and to restrict access through Walkway 6 by locking the gate, without benefit of a coastal development permit to do so.

The gate at Walkway 6 is located near the northeast corner of the Boardwalk. Between the gate and the river trestle is a triangular-shaped piece of property approximately 2,315 square feet in size that appears to be owned by the City of Santa Cruz<sup>1</sup>. This property currently provides both lateral and vertical access connections between the San Lorenzo River levee trail, the San Lorenzo River trestle bridge, the Boardwalk River parking lot, and the Boardwalk and Main Beach. A pedestrian and bicycle ramp on the property provides the physical connection between the various paths, and a critical link between Downtown Santa Cruz and eastside and Westside neighborhoods. As noted in Section A1 above, this area is located on historic tidelands. The Commission's Post-Certification Map adopted for the City of Santa Cruz indicates the entire area may be subject to the public trust. There is currently ongoing litigation to resolve the question of the existence / presence of public trust lands, and though it is unlikely the matter will be resolved prior to Commission action on this application, there is ample evidence to support public prescriptive rights on the property. This area has been well used by the public for decades and continues to provide an important component of the City's non-motorized transportation system.

Prior to installing the unpermitted fence and gate in 2000, the Boardwalk maintained a 12' wide public access gate at Walkway 6 that provided ingress and egress to the Beach and Boardwalk. Based upon the Commission's experience in processing Coastal Development Permit Applications 3-99-070 and 3-99-080 (described above), staff's knowledge of the area, and a lack of evidence to the contrary, the facts indicate that Walkway 6 remained open for public use, at least during the Beach Boardwalk's operating hours, until sometime in 2000. In a recent letter to Commission staff, the Applicant indicated that, at some point in the 1960's, the amusement park began to close the gate at Walkway 6 outside of normal operating hours and during the off-season to prevent tampering / vandalizing of the rides on the east end of the park. Though there has been some anecdotal evidence to suggest that the walkway was open and available for the public access outside of normal operating hours, at this time staff has not received any clear evidence to substantiate these claims. A search of the Commission's permit tracking database, as well as the City of Santa Cruz planning and building permits, revealed numerous permits were issued for development that ranged from installing rides and remodeling concessions, to constructing walls and

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<sup>1</sup> According to Commission staff's review of project plans and parcel maps, the area that would be enclosed by the expanded fence is on Assessor Parcel No. 005-341-14, owned by the City of Santa Cruz. However, according to City of Santa Cruz Permit No. 04-166, the new fencing is supposed to follow Seaside Company property lines. To resolve this inconsistency, Special Condition 1.f. requires final project plans to be accompanied by evidence that the City of Santa Cruz has authorized all development that extends onto City owned property.



fences. Staff researched permit activity from the 1950's to the present. None of those actions authorized the closure of Walkway 6, or the seasonal closure of the Boardwalk's eastern end, currently being carried out by the Seaside Company.

#### Future Development

Several proposals are in the works that may have an impact on, or be affected by, the proposed extension of perimeter fencing and enclosure of the subject property including acquisition and development of the Union Pacific rail line and construction / improvement of a countywide Rail Trail, expansion / improvement of the California Coastal Trail and the Monterey Bay Sanctuary Scenic Trail, and an 8' wide public access ramp on the north side of the railroad right-of-way.

#### Santa Cruz County Rail-Trail

The Santa Cruz County Regional Transportation Commission (RTC) is currently involved in the purchase of the Union Pacific rail line and all bridges / trestles to expand and improve non-motorized transportation alternatives in Santa Cruz County. The rail line currently runs from Davenport (10 miles north of Santa Cruz) to Watsonville –a distance of roughly 30 miles. Freight service currently runs three round trips per week on the rail line. The RTC is considering the construction of a rail-trail that would provide a pedestrian / bike path along side the existing rail line so that rail service can continue and the possibility for future passenger rail service can be preserved. The Coastal Rail Trail is currently planned to extend from Santa Cruz to Watsonville and will be constructed in segments as funding becomes available, starting with the segments in the most populated areas such as Santa Cruz.

The rail line right-of-way is typically 100' in width, however in some areas the right-of-way narrows or has encroachment by surrounding uses. The segment adjacent to the Boardwalk and the San Lorenzo River trestle bridge is substantially narrower than 100 feet. The trestle bridge access path is heavily used by city and county residents because it provides the only convenient all season crossing of the San Lorenzo River near the shoreline. Cantilevered on the north side of the railroad trestle, the existing "multi-use" path is approximately 4' in width and therefore substandard. RTC has identified widening of the trestle bridge access path as necessary to make it a suitable multi-modal segment of the Rail Trail line.

There has been discussion of widening the existing access on the north side of the trestle bridge but because it is cantilevered off the railroad trestle, it may not be feasibly engineered to accommodate both modes of access (pedestrian and bicycles) in both directions. One alternative is to install a separate east bound pedestrian and bike crossing on the south side of the trestle with dedicated traffic flow -similar to a bike lane near roadways. Under this scenario, the existing ramp on the property adjacent to Walkway 6 will continue to provide the necessary connections between the trestle bridge and area trails. Though the Rail Trail is still in planning phase, negotiations with Union Pacific on the purchase of the rail corridor have already begun and close of escrow is anticipated sometime this fall (2005).

#### California Coastal Trail / Monterey Bay Sanctuary Scenic Trail



The California Coastal Trail (CCT) is being developed to provide a continuous hiking trail along the entire length of the California coast. In some places the CCT will coincide with other multi-modal trails that will provide expanded types of access (such as wheelchair and bicycle, etc., in addition to hiking). The Monterey Bay Sanctuary Scenic Trail (MBSST) is being designed with a somewhat similar vision to that of the California Coastal Trail, and is to be developed around the perimeter of Monterey Bay. Both the CCT and the MBSST are envisioned to be composed of various trail segments or trail alignments that serve a specific purpose, or that accommodate a particular need and, when combined, would make an integrated, braided trail system. The trail system would thus provide for continuous lateral access along the Monterey Bay coast, and would be part of a statewide coastal trail system that extends from the Oregon border south to the Mexican border.

In 1999, the national importance of the California Coastal Trail was recognized by its designation under a federal program as California's Legacy Millennium Trail, a part of the nationwide Millennium Trail. In 2001, legislation was enacted that directed the State Coastal Conservancy to map the California Coastal Trail along California's 1,100-mile shoreline. The preferred alignment of the California Coastal Trail (CCT) is one that most closely embodies the following alignment principles:

- *Proximity to the sea. Where feasible, the trail should be within sight, sound, or scent of the ocean. When such lateral access paths must be located in close proximity to the highway, they shall be aligned and designed to provide maximum feasible vertical, horizontal, earthen berm and/or vegetative separation from motor traffic.*
- *Connectivity. The trail should effectively link starting points to destinations. The purpose is to create alternative non-automotive connections that are sufficiently appealing to draw travelers out of their automobiles.*
- *Integrity as a continuous, non-motorized route. To fulfill its promise, the trail must be continuous. Without separation from motor traffic, the safety and character of the trail are compromised.*
- *Respect for natural habitats, cultural and archaeological features, private property, neighborhoods, and agricultural operations along the trail route.*
- *Feasibility of achieving timely, tangible results with available resources. Practically, both interim and long-range alignments will need to be identified.*

It is anticipated that the CCT would be comprised of several strands trending along the coast, including beach routes, boardwalks and hiking trails for pedestrians, and where appropriate, a paved surface multi-modal trail to accommodate all non-motorized users including recreational and commuting bicyclists, and wheelchairs. The multi-modal pathway will also serve as the Monterey Bay Sanctuary Scenic Trail. Both the CCT and MBSST would also be designed to link to connecting spur trails, loops and inland recreational corridors and facilities. Spur trails, connector trails, seasonal alternates, side loops, beach accessways, scenic overlooks, and trailhead parking would all be considered part of the California Coastal Trail system. The range of appropriate improvements would include low-profile interpretive and



informational signs and displays, wildlife observation blinds, foot bridges, stiles, wooden benches, picnic tables, handrails (in high use areas), (well-screened) restrooms, and gates and fencing as needed to protect agriculture, sensitive habitats, and private property.

Walkway 6 and adjoining property is a small but potentially significant link in the future alignment of the California Coastal Trail and the Monterey Bay Sanctuary Scenic Trail. It universally embodies the Coastal Trail alignment principles as it is within sight, sound, and scent of the ocean, and is the hub for a variety of public access trails providing connections to Main Beach and the Boardwalk from the San Lorenzo River trestle bridge, the Beach Street bike lane, and the San Lorenzo River levee trail. Walkway 6 and adjoining property offers pedestrians an opportunity to escape motorized traffic along Beach Street and is already improved and available for public use today. See Exhibit E.

The proposed changes to the access configuration at Walkway 6 could have a significant adverse impact on the future alignment and connectivity of both the CCT and MBSST. As discussed further below, the proposed fencing also precludes future opportunities to provide one-way bike and pedestrian paths on both sides of the Union Pacific Railroad by providing no setback from the right of way. Moreover, the absence of a set back from the railway right of way jeopardizes public safety by interfering with the ability to get out of the way of oncoming trains.

#### North Side Access Ramp to River Trestle Bridge

The Applicant obtained a permit in September 2004 from the City of Santa Cruz to construct an 8' wide public access ramp on the north side of the railroad right-of-way that would provide connection to and from the San Lorenzo River railroad trestle bridge. The north side ramp will provide access to the trestle bridge from area trails (i.e., Beach Street bike path and San Lorenzo River levee trail), without the need to cross the railroad tracks. See Exhibit F. Currently, access to the trestle bridge is gained from the access ramp on the south side of the railroad right-of-way adjoining Walkway 6. The trestle bridge itself is cantilevered on the north side of the railroad trestle and consequently requires crossing over the tracks. Unlike the rail crossings at various other locations fronting the Boardwalk, the Applicant considers the rail crossing nearest the trestle bridge to be a hazard and a violation of current PUC regulations. The applicant maintains the project will enhance public safety and access for pedestrian and cyclists by discouraging users from crossing the tracks and providing a convenient route to area trails with fewer hazards. The permit did not authorize any other access improvements such as widening the trestle bridge path to make it suitable for two-way multi-modal traffic. The San Lorenzo River trestle bridge path is approximately 4' in width. Construction on the access ramp has yet to commence, and there is no guarantee that its construction will take place before the proposed new fence, blocking the existing access ramp, is installed.

#### Public Safety

The Seaside Company contends there is a serious public safety problem occurring at the eastern end of the park that warrants restricting and/or limiting public access at Walkway 6 in the east end of the park. They claim that criminal activity is taking place on the property near the Union Pacific Railroad trestle.



In addition, they have expressed concern that an open access gate provides easy entry and exit to and from the Boardwalk for perpetrators of crime.

Secondly, the Applicant contends that access to and along the railroad tracks opens them up to liability claims when someone is hurt. The current bike and pedestrian path alignment on the river trestle bridge requires users to cross over the train tracks to access the river levee trail. Pedestrians and cyclists also regularly use the railroad right-of-way to gain access between the east and west ends of the Beach and Boardwalk as well as east and west neighborhoods of Santa Cruz. There is a narrow dirt path that runs alongside the railroad tracks approximately 3' in width that has historically provided lateral access along this stretch of coastline. The Applicant claims use of the right-of-way increases the risk of a person being injured by the train or from tripping on the uneven surface next to the tracks. However, there have been few documented incidents of serious accidents. The Applicant authorizes a minimum of six railroad crossings elsewhere along its frontage with the Union Pacific rail line and the vast majority of its nearly 3 million annual visitors must cross over the railroad tracks at various points on the Applicant's property in order to access the Boardwalk and the beach.

#### Police and Boardwalk Security Information

The Applicant submitted copies of incident reports logged by Boardwalk Security in the area of the eastern access (Walkway 6) and the river trestle bridge over a 4-year period from January 2001 to January 2005 (a period when the walkway gate #6 was closed). During this time, Boardwalk security responded to 135 reported incidents (34 per year on average). Of this amount, 21 (16%) were related to petty crime activity such as theft, graffiti, and reports of fighting. Boardwalk security responded to 14 (10%) drug and alcohol related incidents and a similar number (14) of emergency medical responses at or below the river trestle bridge. There were 6 reports of missing children (5%), 7 reports (5%) of individuals climbing over the fence to get in to the park, and 73 miscellaneous incidents (54%) responded to by Boardwalk security. These incident reports do not provide any evidence that the closure of Walkway 6 has increased public safety or decreased criminal activity. In response to staff's request for incident reports prior to closure of the gate at Walkway 6 to allow for such a comparison, the Seaside Company responded that incident records prior to 2000 are sketchy and unreliable. Similarly, staff's request for incident reports from the City of Santa Cruz Police Department did not result in any additional information being provided to support a serious problem with crime.

The Applicant did, however, submit two letters and one attachment from the Santa Cruz Police Department in support of the gate closure, attached as Exhibit D. The letters were written by the current and former Chiefs of Police and essentially state that closure of the gate *may* improve the ability of the police department and Boardwalk security to respond to and contain problems on the east end of the park. Former Chief of Police, Steven Belcher, opined that there would not be any negative impacts associated with the gate closure as long as access and egress were available through the gate in the event of an emergency requiring evacuation and/or a response of outside emergency services personnel. Notably, neither letter provides any evidence, anecdotal or otherwise, that there is a significant problem that would be resolved by closing Walkway 6.



Included in the letter from the current Chief of Police, Howard Skerry, was a Crime Prevention Through Environmental Design (CPTED) survey prepared by Officer Jim Howes. The CPTED survey was conducted in January 2005 (after the gate had been permanently closed) and involves using natural surveillance and access control to increase the perception of risk to potential offenders and take away easy access to targets. The idea is to maximize the visibility of the walkway to people, cars, pedestrians, employees, and bicycles as a way to thwart crime. The survey concluded that the area is poorly lit, not well traveled or patrolled, and not particularly safe due to proximity to the levee road and to the river trestle bridge. The survey recommends that the walkway remain permanently closed at all times, and overlooks alternative measures that may be effective in addressing safety and crime issues such as installing overhead lighting, increasing Boardwalk security patrols, and opening the access to general public use. Such alternatives must be fully considered before the proposed closure of the existing accessway can be found consistent with Coastal Act Section 30210.

## Project Impacts

### Extending Perimeter Fence

As described above, the Applicant proposes to extend the perimeter fencing as a means to curtail crossing of the railroad tracks by the public and improve safety in the area of Walkway 6 by directing access onto the yet to be constructed access ramp on the north side of the railroad right-of-way. The Applicant claims that extending the perimeter fencing is needed to reduce its liability exposure from pedestrian and bicycle accidents along the railroad tracks between the trestle bridge and the west end of the park.

Extending the perimeter fencing will interfere with existing public access opportunities in several ways. First, it will constrain lateral access by reducing the width of existing pedestrian and bicycle travel routes adjacent to Walkway 6. The railroad right-of-way is very narrow along the 500' section of track between Walkway 5 and 6. Due to topography and encroachments, there is just enough room for a 3-foot wide path on the south (ocean) side of the right-of-way. In the immediate area of Walkway 6 closer to the railroad trestle bridge landing, there are fewer encroachments and the area available for bicycle and pedestrian use is somewhat wider. Pedestrians and cyclists crossing the trestle bridge often regroup here before crossing the trestle or heading west along the existing narrow access path. If the area adjacent to Walkway 6 is fenced off as proposed, a significant portion of this area will no longer be available for public use. This will increase congestion, decrease the ability of bicyclists and pedestrians to safely cross the trestle, and eliminate an area currently used by bicyclists and pedestrians to wait the passing of on-coming trains.

Second, until the access ramp on the north side of the trestle is constructed, the proposed fencing will block existing connections from the river trestle bridge to Walkway 6, the river levee trail, and the Beach Street bike lane, which are critical components of the local pedestrian and bicycle circulation network and important vertical and lateral coastal access routes. This will occur because there is currently no alternative means of departure from the railroad right-of-way in the immediate area of Walkway 6. As noted above, this area provides an important link in the City's non-motorized transportation system and fencing of the area will require pedestrians and cyclists to traverse 500' of





additional railroad track before they reach a Beach and Boardwalk entrance or connecting ramp to the Beach Street bike lane and river levee trail.

As a result of these impacts, the proposed project is inconsistent with Coastal Act policies requiring public access to be maximized consistent with public safety needs (Coastal Act section 30210). The proposed fence extension will enclose property that is currently used to gain access to the Beach and adjoining area trails. It restricts lateral access and vertical access. The Applicant claims it is needed to maintain public safety, but has not provided sufficient evidence establishing a public safety threat or need. Therefore, as currently proposed, the fence extension is not consistent with section 30210 of the Act.

Third, there are questions as to whether the Seaside Company owns the property it has proposed to fence, and to what degree the public has an established right to use the area. According to Commission staff's review of project plans and parcel maps, the area that would be enclosed by the proposed fence is on Assessor Parcel No. 005-341-14, owned by the City of Santa Cruz. However, according to City of Santa Cruz Permit No. 04-166, the new fencing is supposed to follow Seaside Company property lines. Also, there is unresolved litigation pending regarding potential public trust lands, as well as evidence historic public use.

The proposed fencing will enclose an area directly adjacent to the well-established pedestrian and bicycle paths described above. In September 2003, Union Pacific officials proposed to close the San Lorenzo river trestle bridge to pedestrians and bicyclists because of liability concerns, but dropped these plans in response to significant public opposition. Staff observations confirm continuous public use of the Boardwalk area adjacent to the railway over multiple decades. This has occurred without permission of the owners of the railroad or the Seaside Company, who have been aware of this use and not attempted to halt such use until recently. Accordingly, substantial evidence exists that the required factors for implied dedication have been met and that the public has established a prescriptive right to use the access corridor that would be affected by the project. Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access to the sea where acquired through use. Extension of the perimeter fencing will interfere with such access and therefore cannot be found consistent with Section 30211 of the Coastal Act.

In addition to consuming land that has been historically used for coastal access and recreation, the proposed fence extension prejudices future opportunities to maximize and enhance such uses by creating an impediment to various options and alignments being contemplated for the Santa Cruz County Rail Trail, the California Coastal Trail, and the Monterey Bay Sanctuary Scenic Trail. For example, expansion of the current footbridge across San Lorenzo River trestle, or hanging a second footbridge on the south side of the trestle, will be necessary to safely and effectively accommodate pedestrians and bikes. The proposed perimeter fencing will extend across the existing approach to the south side of the railroad right-of-way and preclude the possibility for a second footbridge on this side of the San Lorenzo River trestle bridge. Accordingly, the fence extension will impede the planning for and implementation of the Santa Cruz County Rail Trail, the California Coastal Trail, and the Monterey Bay Sanctuary Scenic Trail.



At present, the Santa Cruz County Regional Transportation Commission (RTC) is negotiating for the purchase of the Union Pacific rail line and accessory structures (i.e., trestles, bridges, etc.). In December 2004, the RTC and Union Pacific agreed on a tentative sales price and signed a Letter of Intent to purchase the right of way. The RTC is currently conducting inspections and appraisals of the property with the intent of making a final purchase decision in late 2005. Section 30252(3) states that the location and amount of new development should maintain and enhance public access to the coast by providing non-automobile circulation within the development. Extension of the perimeter fencing impedes public access and further constrains non-automotive circulation in the vicinity of the project. Therefore, the project, as proposed, is inconsistent with Section 30252(3) of the Coastal Act.

In order to bring the project into conformance with the Chapter 3 policies of the Coastal Act, Special Conditions are proposed that will ensure maximum access is provided. Special Condition 1 requires the Applicant to submit Final Plans that prohibit the extension of fencing beyond its current alignment, shown by Exhibit B. Only as so conditioned can the project can be found consistent with Sections 30210, 30211, and 30252(3) of the Coastal Act.

#### Entry and Exit Turnstiles

The Applicant proposes to install two one-way turnstiles at Walkway 6 that will provide public ingress and egress during normal business hours. The Applicant has proposed turnstiles in order to allow Boardwalk visitors to enter and exit the premises at a measured rate while precluding the need for supervision or monitoring. Applicant contends the turnstiles will eliminate an easy escape route (i.e., egress) from the park and act as a deterrent to would-be perpetrators of crime.

Currently, there is an 8-foot tall chain link fence with 4-foot wide gate that is locked shut, preventing access to the Beach Boardwalk and Santa Cruz Main Beach through Walkway 6. Only Seaside Company employees are authorized to use the gate to access the Boardwalk maintenance yard at the east end of the park. This fence and gate was installed without the benefit of a coastal development permit in 2000, and replaced a pre-existing 12-foot wide gate that provided multi-modal access. The original 12-foot opening provided easy and efficient access to the beach and boardwalk for multiple visitors with varying needs.

By contrast, the proposed turnstiles are an impediment to access. Turnstiles restrict through-access to a few individuals at a time. By design only one or two persons can physically pass through a turnstile at one time. They are difficult to navigate for folks with small children and strollers, as well as for persons with disabilities, such as those that are in a wheelchair or on crutches. And they can be difficult for the elderly. Turnstiles simply do not maximize access for all people, and are therefore inconsistent with Coastal Act Section 30210. They also interfere with the type and level of access that was in existence prior to the installation of the unpermitted fence and gate, in conflict with Coastal Act Section 30211.

Turnstiles are also inconvenient and may lead to overcrowding of other nearby access points. As discussed elsewhere in these findings, there is a high demand for beach access at Walkway 6, which is the first and most convenient point of entry to the beach and Boardwalk for pedestrians and bicyclists traveling from the east over the railroad trestle, and from the west on the river levee. It also is the



primary beach access for the persons parking in the Boardwalk River parking lot. The River parking lot has space for roughly 500 vehicles and is routinely filled to capacity during peak season. The installation of turnstiles will interfere with the ability of Walkway 6 to accommodate existing levels of use, and lead to congestion, overcrowding, and overuse of this and other nearby access points, inconsistent with Section 30212.5 of the Coastal Act, which requires access facilities to be distributed throughout an area to mitigate against such impacts.

As discussed in the Public Safety findings above, the Applicant did not provide any compelling evidence of significant problems that would be resolved by restricting access through Walkway 6. And as shown in these findings above, approval of the turnstiles are not consistent with Coastal Act policies for maximizing access and mitigating against overcrowding. The project can, however, be made to conform to applicable Coastal Act policies with the imposition of Special Conditions that require the Applicant to replace the proposed turnstiles with a 12-foot wide gate. Only with this condition will the project maximize access opportunities, restore the level of public access that existed prior to the installation of the unpermitted fence and gate, and prevent impacts associated with the overcrowding of accessways, consistent with Coastal Act requirements.

#### Access Closure

The applicant proposes to provide through access at Walkway 6 during normal business operations. The Boardwalk is generally open every day from 11am and 11pm between Memorial Day and Labor Day, and maintains normal operations on Saturdays and Sundays during the months of February (11am – 6pm), March (11am – 8pm), April (11am – 8pm), May (11am – 8pm), September (11am – 7pm), and October (11am – 7pm). Please see Exhibit I for the 2005 calendar of park hours and operations. No access will be provided through Walkway 6 during the months of November, December, and January because the entire east end of the park is closed during this time. Similarly, from mid-September to mid-May, Walkway 6, the seasonal gate, and the beach gate would be closed at all times during weekdays (i.e., Monday – Friday) and on weekends when the weather is poor.

The proposed restrictions on access severely constrain vertical access to east end of Main Beach and eliminate a vital link in lateral access along the coast for roughly six months of the year between late fall and early spring. During this time of year, the accessway at Walkway 6 takes on additional importance, as increased flows in the San Lorenzo River, or the formation of a lagoon, prevents usage of the beach / river access route below the trestle. See Exhibit G. In such instances, the sandy area around the Boardwalk bulkhead is submerged, and Boardwalk provides the only safe lateral access route along the shoreline. If the beach gate and access point at walkway 6 are locked, pedestrians and beachgoers will have to double back to the nearest open public access gates (usually Walkway 5) resulting in a detour of up to one-quarter mile.

Seaside Company officials maintain that the seasonal closure of Walkway 6, the beach gate, and the east end of the park is consistent with historic operational practice, which commenced in the early 1960's. They contend the closure is needed to protect the existing rides in this area of the park, although to date have not provided any evidence of tampering or vandalizing of the rides in this area. Most, if not all of the rides have protective railing that extends around their periphery and the Boardwalk employs a



number of security officers to patrol the park during the off-season, who are capable of ensuring that their property is protected. Nevertheless, the Applicant has submitted a photograph and written declaration of first hand knowledge of the company's historic practice of closing the gate in the winter and during limited operations in the off-season. Staff has not obtained any specific information to refute the claim. Staff has received anecdotal information suggesting that the walkway may have been available for public access outside of the "normal" operating hours, but has been unable to uncover sufficient evidence to support these claims.

Coastal Act Section 30210 states that *maximum* public access for all people shall be provided consistent with public safety needs. Rather than providing maximum (i.e., unrestricted) public access, the project proposes to limit public access through Walkway 6 to the hours when the Boardwalk is open for business at the east end of the park to preserve public safety and prevent tampering of existing rides, though it has not clearly established the specific times (i.e., days and times) when access would be available to the public. Accordingly, the proposal is not consistent with section 30210 of the Act. To bring the project into conformance with the Coastal Act, Special Condition 2 expands the required hours under which any gate at Walkway 6 must be open and available for general public use to include whenever the seasonal gate shown by Exhibit C is open, and as necessary to restore historic hours of availability. In addition, the permit has been conditioned to require the applicant to submit an access signing plan, providing for the installation of access signs at conspicuous locations within the Boardwalk parking lots, Boardwalk entry points, and along the San Lorenzo River levee trail. The Applicant is also required to update its Attraction Map to reflect the availability of public access at Walkway 6. These conditions are necessary to adequately inform the public of available access routes, particularly in light of the unpermitted restriction to public access promulgated by the Seaside Company in the recent past.

Section 30211 requires that Commission actions on shorefront projects ensure that the development does not interfere with the public rights of access acquired through use. In light of the potential historic rights that may exist on the site as described above, Special Condition 4 notes that the Commission's approval does not in any way waive any public rights that may exist on this site, and that the permit shall not be used or construed to interfere with and public prescriptive or public trust rights. Only with these conditions will the project comply with Coastal Act Sections 30210 and 30211.

### c. Conclusion

The proposed project would result in a significant reduction to the coastal access and recreation opportunities that existed prior to the installation of an unpermitted fence and gate at Walkway 6, and is therefore inconsistent with Coastal Act Section 30210, 30211, and 30212.5. The project would also interfere with important pedestrian and bicycle access routes, and prejudice current efforts to improve these routes, in conflict with Coastal Act Sections 30210, 30211, and 30252. Only as conditioned by this permit can the project be brought into conformance with applicable Coastal Act policies.

## 2. Violation



Unpermitted development occurred on the subject parcel prior to submission of this permit application including the installation of perimeter fencing, replacement of and 12-foot wide public access gate with and 4-foot wide gate, limiting public use of Walkway 6 by locking the gate, and closing the entire eastern end of the Boardwalk on a seasonal basis. The Applicant asserts that the changes were necessary to address public safety concerns arising in the east end of the Boardwalk and has made an effort to clear up these Coastal Act violations within the context of this Coastal Development Permit.

As detailed in the previous findings of this report, the Applicant's proposed method for resolving the violations do not comply with the Chapter 3 policies of the Coastal Act, and has been modified and conditioned accordingly. In order to ensure that the matter of unpermitted development is resolved in a timely manner, the conditions of this permit must be satisfied within specified time frames and the permit action implemented by the applicant. If the applicant withdraws this request or does not meet the conditions as approved by the Commission, formal enforcement action may be pursued to resolve the noted violations of the permit requirements of the Coastal Act.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

### 3. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions that require the applicant to modify the project and implement measures that will avoid and mitigate project impacts. As such, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
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F13a



**Prepared October 12, 2005 (for October 14, 2005 hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Charles Lester, District Director  
Steve Monowitz, District Manager  
Mike Watson, Coastal Program Analyst

**Subject: STAFF REPORT ADDENDUM for F13a**  
**Permit Application 3-04-075 (Seaside Company Fence Extension)**

The purpose of this addendum is to update the staff recommendation regarding the above referenced application and to report on the progress that has been made towards resolving other issues identified in the September 22, 2005 staff report. Since the release of the staff report, the Applicant has indicated that they are in general agreement with Staff's recommendation as it applies to the location and alignment of the perimeter fencing (Special Condition 1a), fencing materials (Special Condition 1c), the hours of public access availability (Special Condition 2c), and public access signing (Special Condition 1d). (See letter from applicant's representative dated October 7, 2005 on page 93 of the Deputy Directors Report to the Commission.) However, the Applicant opposes the requirement for a 12' wide public access gate (Special Conditions 1b and 2b) at walkway 6 and has offered to install a 9' wide, two-directional (ingress and egress) turnstile instead. In addition, the applicant proposes to retain the existing 4' wide gate for ingress and egress through the gate in the event of an emergency requiring evacuation and/or a response of outside emergency services personnel. The applicant also objects to recommended conditions that would require walkway 6 to be open to public use within 24 hours of Commission action, and that would require the expanded hours of availability based on historical evidence (Special Conditions 2a and 2c). Finally, there are a few staff report details that require clarification and/or minor change to reflect those areas of agreement reached with the applicant, as detailed below.

1. Turnstiles

Staff's original recommendation called for removal of the proposed turnstiles because they impeded access for a large segment of the public and could lead to overcrowding of nearby access points. Additionally, staff was concerned that the turnstiles would not be adequate to accommodate potentially large numbers of persons attempting to exit the park during an emergency evacuation. The Applicant's current revised proposal includes installation of a large diameter (9' wide), two-directional turnstile that meets the needs of a broad range of persons and is compatible with ADA requirements. The Applicant further proposes to retain the existing 4' wide gate to be used by maintenance personnel, access for emergency services personnel, as well as an emergency exit for the public whenever there is a need for an evacuation. The proposed revisions to the access point at walkway 6 addresses staff's concerns regarding maximizing access for all persons and retaining a safe evacuation route during an emergency.

Accordingly, Staff continues to recommend approval of the project subject to the following changes /



California Coastal Commission

October 14, 2005 Meeting in San Diego

Staff: M. Watson Approved by:

3-04-075 (Seaside Co. fencing extension) addendum 10.12.2005.doc

clarifications:

**Modify Special Condition 1b and 2b to the staff report to reflect the following:**

1. **Final Plans.** WITHIN 30 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, permittee shall submit final plans to the Executive Director for review and approval, which shall revise and supplement the submitted plans as follows:
  - b. Ingress and Egress. The north fencing shall include an opening for public access at the where it intersection-intersects with the public river levee path, of a minimum width of ~~12~~ 9 feet, which may be gated or alternatively, equipped with a two-directional turnstile and maintenance gate. The turnstile shall be adequately sized to accommodate a broad range of users including those with limited mobility and shall be a minimum of 9' in width. The maintenance / emergency evacuation gate shall be a minimum of 4' in width.
2. **Public Access.**
  - b. WITHIN 90 DAYS OF THE COMMISSION'S ACTION ON THE COASTAL DEVELOPMENT PERMIT, or within such time as the Executive Director may grant for good cause, the permittee shall extend the opening in the fence to a minimum width of ~~12~~ 9' at Walkway 6 ~~and which may install be gate-gated~~ or alternatively, equipped with a two-directional turnstile (minimum 9' width) and 4' wide emergency evacuation and maintenance gate ~~there~~ in conformance with the approved final plan requirements of Condition #1.
  - c. Any gate or turnstile at the Walkway 6 accessway shall remain open and available for pedestrian access and general public use during the normal hours of Boardwalk operation as shown on Exhibit I, ~~and~~ whenever the seasonal gate shown by Exhibit C is open. ~~The time during which the accessway must remain open for general public uses shall be expanded as necessary to restore historic hours of availability.~~

**Modify text on Page 3, Paragraph 1 of the staff report to reflect the following:**

To bring the project into conformance with these policies, **staff recommends the Commission approve a revised project with conditions** prohibiting the extension of fencing beyond its current alignment. This change is necessary to protect existing pedestrian and bicycle access routes, maintain the public's ability to conveniently access the eastern end of the Boardwalk and Main Beach, and prevent interference with the future establishment and operation of the CCT and MBSST. The recommended conditions also require the proposed turnstiles to be replaced with a 9' wide opening that may be gated or alternatively, equipped with a public access gate two-directional turnstile a minimum of 12' 9' in width and adjacent 4' wide maintenance gate. (equivalent to the access opening that was available prior to the installation of the existing unpermitted fencing), and call for the gate, along with the seasonal gate, and beach access gate, to be open. Special Condition 2c further requires that the



accessway at walkway 6 be available for public use during hours of normal operations and whenever the east end of the park is open. This condition maintains the general public's historic ability to travel laterally along the entire length of the Boardwalk, while at the same time allowing the Seaside Company to secure its rides and facilities ~~at night and in the off-season~~ when the park is closed.

**Modify text on Page 19, Paragraph 2 of the staff report to reflect the following:**

As discussed in the Public Safety findings above, the Applicant did not provide any compelling evidence of significant problems that would be resolved by restricting access through Walkway 6. ~~And as shown in these findings above, approval of the turnstiles are not consistent with Coastal Act policies for maximizing access and mitigating against overcrowding.~~ Nevertheless, the Applicant is convinced that a turnstile will act as a deterrent to crime on the east end of the park and increase public safety. To address concerns raised that turnstiles limit access, the Applicant is proposing to install a 9' diameter, two-directional turnstile that can accommodate persons with strollers or someone in a wheelchair. Furthermore, the Applicant proposes to retain the existing 4' wide gate for maintenance personnel and vehicles, as well as for ingress/egress of emergency services personnel and equipment, and emergency evacuation of beach and boardwalk visitors. This design protects and provides for public access consistent with Coastal Act requirements. ~~The project can, however, be made to conform to applicable Coastal Act policies with~~ Accordingly, the imposition of Special Conditions 1b and 2b that require the Applicant to replace the proposed turnstiles with a 12-foot wide gate construct a public access opening with a minimum width of 9' that may gated or alternatively, equipped with a two-directional turnstile (minimum of 9' in width) and an adjacent emergency and maintenance vehicle access gate, 4' in width. Only with this condition will the project maximize access opportunities, restore the level of public access that existed prior to the installation of the unpermitted fence and gate, and prevent impacts associated with the overcrowding of accessways, consistent with Coastal Act requirements.

## 2. Hours of Public Access Availability

The staff report includes a condition (Special Condition 2c) that establishes the hours of availability according to the hours of operation of the east end of the park and provides for expanding availability of public access at walkway 6 in the event that evidence is provided that indicates wider historic hours of availability.

In opposing this condition, Seaside Company officials maintain that the proposed hours of operation and seasonal closure of the access point and beach gate is consistent with the historic operational practice that commenced in the early 1960's. During the course of the staff report evaluation, staff had received anecdotal evidence suggesting that the walkway may have been available for public





access outside of the “normal” hours of operation, but has been unable to uncover sufficient evidence to support these claims.

As originally drafted, the intent of special condition 2c is to provide an opportunity for any other evidence that might surface regarding the historic hours of availability to be considered in establishing hours of use. No such evidence has been made available since the release of the staff report, nor has staff received any indication that such evidence may exist. The potential that the public may have an interest in access at this location (public prescriptive right) is effectively addressed in special condition 4. Therefore, this condition is no longer necessary. Staff continues to recommend approval of the project subject to the following changes / clarifications:

**Modify Special Condition 2c to the staff report to reflect the following:**

- c. Any gate or turnstile at the Walkway 6 accessway shall remain open and available for pedestrian access and general public use during the normal hours of Boardwalk operation as shown on Exhibit I, and whenever the seasonal gate shown by Exhibit C is open. ~~The time during which the accessway must remain open for general public uses shall be expanded as necessary to restore historic hours of availability.~~

**Modify text on Page 20, Paragraph 2 of the staff report to reflect the following:**

Coastal Act Section 30210 states that *maximum* public access for all people shall be provided consistent with public safety needs. Rather than providing maximum (i.e., unrestricted) public access, the project proposes to limit public access through Walkway 6 to the hours when the Boardwalk is open for business at the east end of the park to preserve public safety and prevent tampering of existing rides, though it has not clearly established the specific times (i.e., days and times) when access would be available to the public. Accordingly, the proposal is not consistent with section 30210 of the Act. To bring the project into conformance with the Coastal Act, Special Condition 2 expands the required hours under which any gate at Walkway 6 must be open and available for general public use to include whenever the seasonal gate shown by Exhibit C is open, ~~and as necessary to restore historic hours of availability.~~ In addition, the permit has been conditioned to require the applicant to submit an access signing plan, providing for the installation of access signs at conspicuous locations within the Boardwalk parking lots, Boardwalk entry points, and along the San Lorenzo River levee trail. The Applicant is also required to update its Attraction Map to reflect the availability of public access at Walkway 6. These conditions are necessary to adequately inform the public of available access routes, particularly in light of the unpermitted restriction to public access promulgated by the Seaside Company in the recent past.



### 3. Restoring Public Access.

Special Condition 2a requires the Applicant to open the existing 4'wide maintenance gate for pedestrian access and general public use within 24 hours of the Commission's action on the CDP. The intent was to address the unresolved Coastal Act violation (i.e., permanent closure of the gate) as soon as possible and immediately restore public access to the shoreline through walkway 6. The Seaside Company has responded that the east end of the Boardwalk will be closed for the season and thus, the requirement to open the east end gate within 24 hours of the Commission's action is inappropriate. After reviewing the park's calendar of operations, it appears east end operations will continue for 2 weekends after the Commission hearing, before closing for the winter. Accordingly, the Applicant's desire to keep the gate at walkway 6 closed for the last two weekends of the 2005 season will not result in a significant adverse impact to public access. As required by other conditions of the permit, the applicant must construct / install the required new access amenities (i.e., turnstiles and maintenance/evacuation gate) and implement management measures prior to re-opening of the east end of the park in February 2006. Thus, Staff continues to recommend approval of the project subject to the following changes / clarifications:

#### **Delete Special Condition 2a to the staff report:**

#### **2. Public Access.**

- a. ~~WITHIN 24 HOURS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the Applicant shall keep open the existing gates at Walkway 6, at the easternmost stairway to the beach, and the seasonal gate shown on Exhibit C for public ingress and egress for the times specified in subsection c below.~~

### 4. Omissions.

Staff inadvertently omitted correspondence from the Santa Cruz City Police Department that was referred to on Page 15 of the staff report findings. Staff continues to recommend approval of the project subject to the following change:

#### **Insert attached correspondence as Pages 29-34 of Exhibit D: Correspondence.**





February 10, 2005

**RECEIVED**

FEB 10 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Mike Watson, Coastal Planner  
Central Coast District Office  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

RE: Application for Coastal Development Permit #3-04-075  
Transmittal of Follow-Up Information

Dear Mr. Watson:

This letter is sent as a following up to my letter of January 28, 2005 to provide additional information regarding the above referenced permit application.

Santa Cruz Police Department Review & Position

Enclosed please find a letter from Howard Skerry, Chief of Police for the City of Santa Cruz. Included with this letter is a crime prevention environmental survey that was conducted by SCPD Officer Jim Howes, who is state certified in the Crime Prevention Through Environmental Design Program. [C.P.T.E.D.] Also included is a copy of a letter from former Chief of Police, Steven R. Belcher, in support of the closing of our walkway 6. The conclusions drawn by both the former and current Police Chiefs and Officer Howes support the continuing closure of the WW6 gate from a crime prevention point of view. However, we have conceded and, I believe the police comments support, that the major issue is egress of perpetrators of crimes and misdemeanors on the Boardwalk facility. Therefore, we continue to believe that a gate permitting one-way access into the area during open business hours would not seriously jeopardize our public safety concern.

I am told that the police department's records of calls for service do not identify this area as a location. Therefore, the police department is not able to provide objective statistics related to the specific WW6 and railroad trestle area.

Santa Cruz Seaside Company Security Department Statistics

Also enclosed is a redacted summary of incident reports, logged by our security department over the last several years, regarding the WW6 and the railroad trestle area. Please keep in mind that our security department operates on an "observe and report" basis with the Santa Cruz Police Department. The authority of our officers to enforce company policy and engage in public safety response extends only to our specific property. The railroad trestle and river levee are beyond our jurisdiction. Nevertheless, incidents have been logged which document to type of behavior that occurs in this area.

Mike Watson  
February 10, 2005  
Page 2

I trust you will find this information supportive of our concern regarding the public safety issues relating to the WW6 area. Please feel free to contact me, should you need additional information or have questions regarding the attachments.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Carl Henn, Sr.', with a large, stylized initial 'C'.

Carl Henn, Sr.  
Facility Development Director



P O L I C E   D E P A R T M E N T

155 Center Street, Santa Cruz, CA 95060 • (831) 420-5810 • Fax (831) 420-5811

**RECEIVED**

January 26, 2005

FEB 10 2005

Ted Whiting III  
Santa Cruz Seaside Company  
400 Beach Street  
Santa Cruz, CA 95060

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Whiting:

On September 27<sup>th</sup>, 1999, former Chief of Police Steven Belcher sent you a letter regarding the closing of walkway 6 (refer to attachment). You have asked me to re-evaluate this issue. Since the time of that letter, security design has made several advancements, including the use of a program known as C.P.T.E.D. C.P.T.E.D. is the acronym for Crime Prevention Through Environmental Design. This is used nationwide by public and private entities insure crime prevention issues are adequately addressed in the design/development of public and private buildings, housing, community areas, etc. Officer Jim Howes of our Community Services Section is state certified in this program. I asked Officer Howes to examine all of the access points to your property. The results of his survey are attached to this document.

As you can see, there are a number of safety concerns regarding a proposal to open walkway 6 which has been closed for 5+ years. Based on the survey and those safety concerns, it is my recommendation that this area remain closed.

Sincerely,

Howard Skerry  
Chief of Police

HS:bv  
Attachments

FEB 10 2005

## Crime Prevention through Environmental Design (CPTED) Survey

Location: Santa Cruz Beach Boardwalk and the proposed walkway 6

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COASTAL COMMISSION  
CENTRAL COAST AREA

I visited and photographed both the proposed walkway 6 and established walkway 5 Saturday January 22, 2005.

This survey includes digital photographs (CD PowerPoint) of the general area and the specific walkways discussed.

### ***CPTED concepts include:***

***Natural Surveillance*** involves the ability to utilize people in such a way to maximize visibility. All other walkways on the boardwalk property offer a good example of this, with a clear view from passing pedestrians, motorists, boardwalk employees, and neighboring businesses and residential structures.

Due to the proposed location at the extreme eastern portion of the property, the entrance would not be in view of passing pedestrians, motorists, boardwalk employees, and neighboring businesses and residential structures. It would be out of site of a number of existing booths and venues within the boardwalk property.

The entrance to the proposed walkway 6 would be much lower than walkway 5 and others. This is primarily due to the existing railroad tracks and their natural height above the extreme eastern edge of the property. This elevation over that area of the property seems to be due to the railroad trestle.

The location is unique due to the elevation of the railroad tracks, but also due to trees and other vegetation in that area. The area is much darker than other entrances due to its location under the large log ride overhead. The maintenance and storage facility at that end of the property and next to the railroad tracks adds to conceal the entrance from natural surveillance.

Photographs taken of the location reflect this.

***Natural Access Control*** creates a perception of risk to potential offenders and denies them access to targets.

The proposed walkway would create a concealed entrance and exit, placing those who are entering or leaving the property in a position of becoming a potential target for criminals.

No other exit or entrance on the property creates a similar condition. Those entering the property are required to traverse an area concealed from the roadway and sidewalks. They would be required to walk on the levee or through the parking lot located at Beach and Third Streets and under the railroad trestle to the entrance.

While under the railroad trestle, a pedestrian is out of view of those on the Boardwalk property, which includes the entranceway itself and parking lot cashier.

If pedestrians were to choose to enter the proposed walkway from the west, they would walk approximately 300 feet along the railroad tracks while concealed from those natural surveillance components discussed earlier.

***General Safety Concerns:***

The proposed walkway encourages those leaving the property to use the East Cliff railroad trestle. A new entrance in this area might encourage boardwalk patrons to park in the East Cliff neighborhoods and walk across the railroad trestle. The trestle has been the source of injuries to pedestrians, including falling from the trestle. Pedestrian use of the railroad has been discouraged in the past; however, this would send a much different message.

Historically, those running from security and police have used walkway 5 to exit the boardwalk property. Developing a concealed entrance and exit at the extreme eastern portion of the property would only make this problem worse and facilitate their escape across the railroad trestle.

There have been instances where gang members from other jurisdictions target the area of Beach and Third Streets specifically to intimidate local gang members and visitors to the boardwalk. They have traditionally accessed the Boardwalk property through walkway 5. Security personnel escort them off the property through walkway 5. Patrol vehicles easily access the property through walkway 5 and transport prisoners if necessary. A new walkway at the extreme edge of the property would only facilitate their escape and place those in the area of the new walkway at risk.

Jim Howes  
831 420-5844



POLICE DEPARTMENT  
212 Locust Street, Santa Cruz, CA 95060 • (831) 429-3700 • Fax (831) 457-8215

September 27, 1999

**RECEIVED**

FEB 10 2005

Ted Whiting III  
Santa Cruz Seaside Company  
400 Beach Street

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

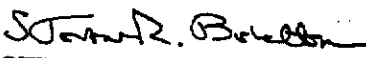
Dear Mr. Whiting:

This letter is in response to your inquiry regarding the closing of Walkway 6 at the Boardwalk and its impact on law enforcement operations. It is our opinion that there would be no negative impact as long as access and egress would be available through the gate in the event of an emergency requiring evacuation and/or a response of outside emergency services personnel.

As we have discussed previously, the closure of Walkway 6 may actually improve the ability of the police department and your security department to respond to and contain problems on the east end of the Boardwalk. The closure would deny a frequently used and convenient escape route to perpetrators of criminal activity.

It is my understanding the actual entrance/exit gate will not be removed as part of your remodel, thus presenting public safety ingress/egress issues.

Sincerely,

  
STEVEN R. BELCHER  
Chief of Police

SRB:DF:bv